

In Re:
Mark A Nelson,

Debtor,

Case No. 04-35337
Chapter 7 Case

NOTICE OF HEARING AND MOTION FOR RELIEF FROM THE STAY

TO: Debtor(s) and other entities specified in Local Rule 9013-3.

1. Audi Financial Services, a division of VW Credit, Inc. moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion on October 25, 2004 at 9:30 AM o'clock, in Courtroom No. 228A, at the United States Courthouse, 316 North Robert Street, St. Paul, MN.
3. Any response to this motion must be filed and delivered not later than October 20, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than October 14, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this case was filed on September 13, 2004. The case is now pending in this court.
5. This motion arises under 11 U.S.C. §362(d) and Fed. R. Bankr. P. 4001. This motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 9006-1, 9013-1 through 9013-3, and 9017-1. Movant seeks relief from the automatic stay in §362(a) to foreclose its lien against the 2001 AUDI TT-180 CPE QUATTRO TURBO VEHICLE (the collateral), and requests the court permit Movant to immediately enforce the order requested, lifting the 10 day stay imposed by

Rule 4001(a)(3).

6. Movant requests relief from the stay for cause under §362(d)(1). Debtor is delinquent under the terms of the original contract with Movant. Movant requests relief under §362(d)(2). The Debtor has no equity in the collateral, and the collateral is not necessary to an effective reorganization.
7. Movant gives notice that it may, if necessary, call the person who signed the verification to this motion, or some other representative of Movant, from Movant's offices in Minnesota, to testify regarding the debt and value.
8. This notice of motion and motion also serve as notice of default required by Cobb v. Midwest Recovery Bureau Co., 295 N.W.2d 232 (Minn.1980). If the default is not cured before the hearing, Movant will repossess the property promptly upon the Court signing the Order.
9. A separate Memorandum of Fact and Law is attached hereto and made a part hereof.

WHEREFORE, Audi Financial Services, a division of VW Credit, Inc. moves the Court for an order modifying the automatic stay of §362(a) and such other relief as may be just and equitable.

Dated: October 6, 2004

STEWART, ZLIMEN & JUNGERS, LTD.

/e/ Linda Jeanne Jungers

Linda Jeanne Jungers, Atty ID #5303X

Attorneys for Movant

430 Oak Grove Street #200

Minneapolis, MN 55403

612-870-4100

This is a communication from a debt collector attempting to collect a debt. Any information obtained will be used for that purpose.

MINNESOTA DEPARTMENT OF PUBLIC
DRIVER & VEHICLE SERVICES DIVISION
443 MINNESOTA ST., ST. PAUL, MN 55401
CONFIRMATION OF LIEN PERFECTION - 1

NBS 9/27/2004

NELSON MARK ALLEN
1611 KEYSTONE DR
ALBERT LEA MN 56007

LYN633

Year 01	Make AUDI	Model CPATQ	Title NR F0500S103
VIN TRUWC28N111004234		Security Date 01/13/04	Rebuilt NO

1ST SECURED PARTY

LIEN HOLDER

RETAIN THIS DOCUMENT - See reverse
side of this form for removing this lien.

AUDI FINANCIAL SERVS
1401 FRANKLIN BLVD
LIBERTYVILLE IL 60048-4460



EXHIBIT A

NELSON 832835106-01		BUYER'S (AND CO-BUYER'S) NAME AND ADDRESS MARK A NELSON 1611 KEYSTONE DR ALBERT LEA, MN 56007		CREDITOR (SELLER'S) NAME AND ADDRESS PARK PLACE MOTOR CARS 2720 NORTH HIGHWAY 52 ROCHESTER, MN 55901		DATE OBS 9/27/2004													
<p>Creditor named above. The words "you" and "your" refer to the Buyer (and Co-Buyer, if any) named above. If both a Buyer and a Co-Buyer sign this contract, the agreements in this contract. This contract covers your purchase of a motor vehicle from us on credit. We have quoted you a credit price (shown below as the "Total Sale Price") and a lower cash price. By signing this contract, you are buying from us and we are selling to you the vehicle described below for the Total Sale Price and under the agreements on the front and back of this contract. You agree that you have received and accepted the vehicle in good order.</p> <p><input type="checkbox"/> This contract does not contain a Balloon Payment. <input type="checkbox"/> This contract does contain a Balloon Payment. See paragraphs E, F and G on the back side of this contract for the agreements with respect to the Balloon Payment. You may drive the vehicle for 125 miles per year without having to pay any additional excess mileage charge of \$1.00 per mile as described in paragraph F on the back side of this contract if applicable.</p>				USE OF VEHICLE: <input type="checkbox"/> PERSONAL <input type="checkbox"/> BUSINESS <input type="checkbox"/> AGRICULTURAL															
VEHICLE DESCRIPTION <input type="checkbox"/> NEW <input checked="" type="checkbox"/> USED YEAR: 2001 MAKE: AUDI CYL: 4 MODEL: TT COUPE BODY STYLE: TRUNC28N11004234 VEHICLE IDENTIFICATION NO.: 46774 ODOMETER READING AT DELIVERY: N/A		Describe Trade-in YEAR: N/A MAKE: N/A MODEL: N/A																	
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. 2.90%		FINANCE CHARGE The dollar amount the credit will cost you. \$ 1727.85		Amount Financed The amount of credit provided to you or on your behalf. \$ 22516.35		Total of Payments The amount you will have paid after you have made all payments as scheduled. \$ 24244.20													
Total Sale Price The total price of your purchase on credit, including your downpayment of \$ N/A. \$ 24244.20																			
Payment Schedule: Your payment schedule will be: NO. OF PAYMENTS: 60 AMOUNT OF EACH PAYMENT: \$ 404.07 WHEN PAYMENTS ARE DUE (MONTHLY BEGINNING): 02/27/2004 NO. OF PAYMENTS: AMOUNT OF EACH PAYMENT: WHEN PAYMENTS ARE DUE (MONTHLY BEGINNING):																			
Prepayment. If you pay off early, you will not have to pay a penalty. Security Interest. You are giving a security interest in the property being purchased. Filing Fees \$ N/A See this Retail Installment Contract for any additional information about security interests, nonpayment, default, any required repayment in full before the scheduled date, prepayment and refunds. E means an estimate																			
<p>PHYSICAL DAMAGE INSURANCE is required under this contract. You may obtain physical damage insurance from anyone you want that is acceptable to us. If a premium is shown in 4a(i), it means that you choose to get the insurance through us and that you will pay the premium shown for the coverage checked for a term of N/A months. <input type="checkbox"/> Comprehensive; <input type="checkbox"/> Fire-Theft and Combined Additional Coverage. <input type="checkbox"/> \$ N/A. Deductible Collision: <input type="checkbox"/> Towing and Labor (if included, cost of \$ N/A is included in the premium). Insurance settlement will be based upon actual cash value of the vehicle at time of loss, but not more than the amount stated in the policy, and payable to you and the Assignee of Creditor, as interests may appear.</p> <p>MECHANICAL BREAKDOWN INSURANCE is not required under this contract. If a premium is shown in 4a(ii), it means that you choose to get the insurance through us and that you will pay the premium shown for coverage for a term of N/A months and/or N/A miles and with a \$ N/A Deductible.</p> <p>YOU MAY CHOOSE THE PERSON THROUGH WHICH THE INSURANCE IS TO BE OBTAINED. LIABILITY INSURANCE COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE CAUSED TO OTHERS IS NOT INCLUDED.</p> <p>CREDIT LIFE AND/OR ACCIDENT AND HEALTH INSURANCE for a term of N/A months according to the terms and conditions in the policy or certificate of insurance issued by: NAME OF INSURER: N/A HOME OFFICE ADDRESS: N/A</p> <p>CREDIT LIFE INSURANCE AND ACCIDENT AND HEALTH INSURANCE ARE NOT REQUIRED TO OBTAIN CREDIT, AND WILL NOT BE PROVIDED UNLESS YOU SIGN AND AGREE TO PAY THE ADDITIONAL COST.</p> <table border="1"><tr><td>TYPE...</td><td>PREMIUM...</td><td>PERSON(S) INSURED...</td><td>TYPE...</td><td>PREMIUM...</td><td>PERSON(S) INSURED...</td></tr><tr><td><input type="checkbox"/> CREDIT LIFE</td><td>\$ N/A</td><td></td><td><input type="checkbox"/> ACCIDENT AND HEALTH</td><td>\$ N/A</td><td></td></tr></table> <p>I want the credit (insurance coverage) checked above: SIGNATURE: SIGNATURE:</p> <p>GUARANTEED ASSET PROTECTION (GAP) is not required to obtain credit and will not be provided unless you initial below and agree to pay the fee. You are not required to purchase the GAP waiver from Creditor. If you purchase the GAP waiver from Creditor, the terms and conditions of the GAP waiver will be set forth in a separate written agreement. The term of the GAP waiver is the same as the term of this contract. If you want the GAP waiver for the cost listed, please initial: Cost \$ Buyer's Initials: MN Co-Buyer's Initials:</p>								TYPE...	PREMIUM...	PERSON(S) INSURED...	TYPE...	PREMIUM...	PERSON(S) INSURED...	<input type="checkbox"/> CREDIT LIFE	\$ N/A		<input type="checkbox"/> ACCIDENT AND HEALTH	\$ N/A	
TYPE...	PREMIUM...	PERSON(S) INSURED...	TYPE...	PREMIUM...	PERSON(S) INSURED...														
<input type="checkbox"/> CREDIT LIFE	\$ N/A		<input type="checkbox"/> ACCIDENT AND HEALTH	\$ N/A															
<p>A. PROMISE TO PAY. Buyer promises to pay to Creditor the Total of Payments on the dates and in the manner set forth in the Payment Schedule on the respective date(s) shown therein. Each payment received will be applied first to accrued and unpaid Finance Charge, which accrues based upon actual dates of payment and the remainder will be applied to reduce the Amount Financed. The Finance Charge, Total of Payments, and the Total Sale Price are based on the assumption that Buyer will make every payment on the day it is due. The Finance Charge, Total of Payments and Total Sales Price will be more if you pay late and less if you pay early. Your final payment may be larger or smaller, depending on whether you have made payments late or early. The Creditor will send you a notice before the due date of the final scheduled payment to show you what you owe. You agree to pay that amount at your final scheduled payment.</p> <p>B. PREPAYMENT. Buyer may prepay his obligations under this contract in full at any time prior to maturity and you will be liable for the accumulated Finance Charge to the actual date of repayment. If you pay off early in full, you will not have to pay a penalty. Any premium rebates of mechanical breakdown insurance, credit life and/or accident and health insurance financed hereunder will be applied as determined by Creditor unless otherwise prescribed by law.</p> <p>C. SECURITY INTEREST. Buyer grants and Creditor shall have a Security Interest, as the term is defined in the Uniform Commercial Code of the state in which this contract is executed, in the property and the proceeds thereof, including any accessions to the property, rebates from any GAP waiver financed hereunder, in any premium rebates from mechanical breakdown insurance or any other insurance financed hereunder, in the proceeds of any insurance on the property, and in the proceeds of any credit life and/or accident and health insurance financed hereunder, until all amounts due under this contract are paid in full.</p> <p>D. BALLOON PAYMENT. For purposes of this contract, a "Balloon Payment" is an originally scheduled final payment owed to us that is substantially larger than any of the prior scheduled payments. If this contract contains a Balloon Payment, you agree that when such payment becomes due to be paid to either (1) pay the Balloon Payment in its full amount when it is due to be paid, (2) refinance the Balloon Payment as described in paragraph E on reverse, or (3) sell the vehicle to us as described in paragraph F on reverse.</p>																			
<p>YOU AGREE that you signed this contract and received a completely filled-in copy on 13 JAN 2004 (NY) 2004</p> <p>IMPORTANT: THIS MAY BE A BINDING CONTRACT AND YOU MAY LOSE ANY DEPOSITS IF YOU DO NOT PERFORM ACCORDING TO ITS TERMS.</p>																			
A. BUYER SIGNS M.A. Nelson				B. CO-BUYER SIGNS Amy Dubelick															
<p>THIS CONTRACT is accepted by the Creditor (Seller) named above and assigned to Audi Financial Services, a division of VW Credit, Inc., or its assignee, ("Holder") according to the terms of the Assignment on the back of this contract.</p> <p>CREDITOR (SELLER) PARK PLACE MOTOR CARS BY Amy Dubelick BUSINESS MANAGER</p>																			

EXHIBIT B

ORIGINAL

ADDITIONAL AGREEMENTS

- E. REFINANCING BALLOON PAYMENTS.** If the originally scheduled final payment owed to us is a Balloon Payment, you may refinance the Balloon Payment unless you have violated some part of this contract. You must provide us with proof that the vehicle is insured in a manner that is acceptable to us before you can refinance the Balloon Payment. The Annual Percentage Rate and the term of the refinancing of the Balloon Payment will not exceed that allowed by law. You must notify us in writing of your intention to refinance the Balloon Payment at least 30 days before the date the Balloon Payment must be paid except as allowed in paragraph F below.
- F. RETURN OF VEHICLE.** If the originally scheduled final payment owed to us is a Balloon Payment, you may sell the vehicle to us for an amount that is equal to the amount of the Balloon Payment you owe us. Also, you must give us for each mile you drive the vehicle in excess of the total number of miles allowed as stated on the front of this contract plus the cost of all repairs that are the result of excess wear and tear. Excess wear and tear includes, among other things: (1) broken, damaged or discolored glass; (2) damage to the body, metalwork, lights, trim or paint; (3) removal of equipment that was part of the vehicle when you accepted the vehicle unless you substituted replacement equipment that is satisfactory to us; (4) damage from flood water, hail or sand; or (5) any damage or other condition that makes the vehicle either unsafe or unlawful to drive. Each tire must have at least 1/8 inch tread. All tires must be of a matching set. Snow tires are not acceptable. You must maintain the vehicle according to the manufacturer's recommended maintenance schedule and must produce evidence of this upon our request.
- In order to sell the vehicle back to us, you must contact us in writing 30 days before the due date of the Balloon Payment and arrange a time and place suitable to us for inspection of the vehicle no later than 15 days before the due date of the Balloon Payment. At this inspection we will determine whether there is any excess mileage or excess wear and tear on the vehicle. If after the inspection of the vehicle you decide to sell the vehicle to us, you must give us the vehicle no later than the date the Balloon Payment is due along with a certified check in the amount you owe us for excess mileage and excess wear and tear, if any, as was determined at the vehicle inspection and a certificate of title to the vehicle that shows no liens other than our lien and that transfers ownership of the vehicle to us. If you decide not to sell us the vehicle after the inspection, you must either (1) pay the total amount of the Balloon Payment owed when it becomes due or (2) contact us within 5 days after the inspection and inform us that you want to refinance the Balloon Payment and refinance the Balloon Payment on or before the date it is due.
- If you disagree with the amount of money you must pay to us for wear and tear as determined at the inspection of the vehicle, you may obtain, at your own expense, from a factory-authorized dealer of the vehicle approved by us a dollar estimate of the amount of wear and tear. The amount that you owe us for wear and tear will be the lower of the amount determined as excess wear and tear on the vehicle by the inspection discussed above or the estimate obtained at your expense.
- G. USE OF VEHICLE.** You promise not to use the vehicle illegally or improperly. You agree that the vehicle will not be misused or exposed to seizure or confiscation by any government. You agree not to use the vehicle for hire unless as stated on this contract. You agree not to take the vehicle out of the state where you first received it or to keep it outside that state for more than 30 days without our written permission. You agree to keep the vehicle in good repair and to show it to us when we ask.
- H. OWNERSHIP AND RISK OF LOSS.** You agree that you are the lawful owner of the vehicle. You promise not to sell or transfer the vehicle or any of your interest in it or in this contract without our written permission. You agree to pay all you owe under this contract and to perform all your obligations under this contract even if the vehicle is damaged, destroyed or missing.
- I. TAXES AND THE CLAIMS OF OTHERS.** You agree that your trade-in, if any, is free from all taxes and the claims of others (liens) except any lien shown on the front of this contract. You promise to keep the vehicle being purchased free from all taxes and liens (other than our lien). You promise to keep our lien showing on the title of the vehicle until you have paid all you owe under this contract. If we pay any liens or taxes on the vehicle for you, you agree to repay us on demand with interest at the Annual Percentage Rate as disclosed on the front of this contract.
- J. REQUIRED PHYSICAL DAMAGE INSURANCE.** You promise to keep the vehicle insured at your expense against damage, destruction or loss until the loss payable to us in the amount of our interest in the vehicle. You agree to deliver all such insurance policies to us when received. If a premium for physical damage insurance is included on the front of this contract, it does not change the requirement that you must keep the vehicle insured. Including that premium on this contract only means that we will try to obtain such insurance for you through an authorized insurance agent. If we are unable to obtain that insurance, for the term and coverages described, you agree that we can use or apply the premium included in this contract according to paragraph K below.
- (1). FAILURE TO INSURE.** At any time during the term of this contract, if the vehicle is not insured as required by this contract or if you fail to give us satisfactory evidence of such insurance when we ask for it, you agree that we can buy physical damage insurance on the vehicle protecting you and us or only us. (You also agree that we are not required to buy any insurance unless we choose.) If we do buy such insurance, you agree to pay us, as an additional part of your debt, the cost of that insurance on demand, or, if we choose, in equal payments with the payments shown on your Payment Schedule plus interest at the Annual Percentage Rate as disclosed on the front of this contract.
- (2). APPLICATION OF PROCEEDS.** You agree that we can use any proceeds from insurance required under this contract, regardless of who buys the insurance, either to repair or replace the vehicle or to reduce our debt under this contract, as we decide.
- K. RETURN OF INSURANCE PREMIUMS OR SERVICE CONTRACT CHARGE.** By signing this contract, you are assigning to us any GAP waiver fee or premium rebates (but not more than the unpaid balance due under this contract) that may become payable under physical damage insurance on the vehicle that is financed in this contract. You agree that we can use any premium rebates for physical damage insurance returned to us to buy similar insurance protecting you and us or only us or that we can apply it to the last payment or payments due under your Payment Schedule, as we decide. If any premium for other types of insurance or any charge for a service contract or GAP waiver is returned to us, you agree that we can apply it to the last payment or payments due under your Payment Schedule.
- L. OUR RIGHT TO REQUIRE FULL PAYMENT OR TAKE THE VEHICLE.** We can, without notice to you, cause the entire amount you owe us under this contract to be due and payable at once, or we can take the vehicle from you, or we can do both, if:
1. you fail to pay any payment when it is due, or
 2. you fail to do any of the things required of you by this contract, or
 3. you fail to insure the vehicle or to keep the vehicle insured as required by this contract, or
 4. you file a court proceeding in bankruptcy, receivership or other insolvency or one is filed against you, or
 5. you do or have done anything or anything happens that reasonably causes us to believe you will not pay your payments when due or not keep your agreements under this contract.
- The entire amount you owe us includes all the remaining payments under your Payment Schedule plus any late charges and any other charges you are required to pay under this contract. In figuring the entire amount you owe us under this paragraph L, we will give you a refund credit for the unused part of any insurance premiums returned to us.
- M. REPOSSESSION.** To take the vehicle, we can enter your property, or the property where it is stored, so long as we do it peacefully. If you have any personal property in the vehicle, you agree that we are not responsible for it. Any parts or equipment installed in the vehicle will remain with the vehicle.
- (1). YOUR RIGHT TO GET THE VEHICLE BACK.** You can get the vehicle back from us (redeem) if you pay the entire amount you owe us under this contract, figured the same as in paragraph L above, plus the reasonable expenses we paid as a direct result of taking the vehicle, holding it and preparing it for sale. Your right to redeem, ends when the vehicle is sold.
- (2). SALE OF REPOSSESSED VEHICLE.** We will send you a written notice of sale before selling the vehicle. This notice will show you the amount needed to redeem and the earliest date on which the vehicle may be sold. If you do not redeem, the vehicle will be sold. The proceeds of the sale, less allowed expenses, will be used to pay the amount still owed on this contract. Allowed expenses are those reasonable expenses we paid as a direct result of taking the vehicle, holding it, preparing it for sale and selling it. Attorney's fees not exceeding 15% of the amount due and payable under this contract when such contract is referred to an attorney not a salaried employee of Creditor for collection and court costs paid are allowed too.
- If there is any money left over (a surplus), it will be paid to you. If the proceeds of the sale, less allowed expenses, are not enough to pay the amount still owed on this contract, you agree to pay us the difference with interest at the Annual Percentage Rate as disclosed on the front of this contract, unless (1) you bought the vehicle mainly for a personal, family or household purpose and (2) the total amount of credit provided to you was \$4,200.00 or less. Even if we repossess your vehicle and sell it, we can keep all the payments you paid and apply them to the amount still owed on this contract.
- N. NO WAIVER OF OUR RIGHTS.** If we overlook your failure to keep one of your agreements under this contract, it does not mean we must or will overlook any other failure to keep your agreements. We can delay enforcing any of our rights under this contract without losing them.
- O. NOTICES TO YOU AND CHARGES IN THIS CONTRACT.** You agree that any notice to you can be mailed to your address on the front of this contract. You agree that any change in this contract, in order to be binding, must be in writing and signed by us. If any part of this contract is found to violate any law, all other parts will remain enforceable.
- P. TRANSFER OF THIS CONTRACT.** When this contract is transferred, the Assignee named on the front of this contract will have all of our rights and remedies under this contract, and you agree to pay all that you still owe under this contract to the Assignee.
- Q. GOVERNING LAW.** This contract will be governed by the law of the state in which it is signed or, if we repossess the vehicle, that repossession will be governed by the law of the state where the vehicle is repossessed.

WARRANTIES WE DISCLAIM. You agree that you are buying the vehicle "AS IS", that there are no warranties of any type covering the vehicle and that we have not made any promises or statements to you about the vehicle unless: 1. the vehicle is of a type normally used for personal, family or household purposes, and 2. we have given you a written warranty or a service contract covering the vehicle on the date of this contract or within 90 days after such date.

NOTICE: THE INFORMATION YOU SEE ON THE WINDOW FORM FOR THIS VEHICLE IS PART OF THIS CONTRACT. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT OF SALE.

The preceding NOTICE applies if the vehicle is a used vehicle as shown on the front of this contract and if this contract is a contract of sale under the Used Motor Vehicle Trade Regulation Rule.

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

The preceding NOTICE applies to goods or services obtained primarily for personal, family or household use.

ASSIGNMENT

FOR VALUE RECEIVED, the Creditor (Seller) named on the face of this contract ("Seller") hereby sells, assigns and transfers to Audi Financial Services, a division of VW Credit, Inc., or its assignee ("Holder") Seller's entire right, title and interest in and to this contract and authorizes Holder to do every act and thing necessary to collect and discharge obligations arising out of or incident to this contract and assignment. In order to induce Holder to accept assignment of the contract, Seller warrants (1) that the contract is genuine, legally valid and enforceable and arose from the sale of the property described on the face of this contract ("Property"); (2) that the Property is as represented to the Buyer named on the face of this contract ("Buyer") who was quoted both a unit price and a lesser cash price; (3) that the Buyer is not a minor, has capacity to contract and paid the downpayment cash as stated in the contract; (4) that Seller has verified that there is no inaccuracy or misrepresentation in any statements made by or on behalf of Buyer and furnished to Holder by Seller; (5) that all disclosures required by law were properly made to Buyer prior to Buyer signing the contract; (6) that all insurance documentation will be delivered to Buyer within the time required by law; (7) that Seller has verified that there is no fact that would impair the validity or value of the contract; (8) that title to the Property at the time of sale was vested in Seller free of all liens and encumbrances. Seller has the right to assign this contract, and a certificate of title to the Property, showing a first lien or encumbrance for the benefit of Holder or Seller, has been or will be applied for herewith if permitted by law; (9) that any co-buyer or guarantor of the contract was provided a notice to co-signer form, where required; and (10) that Seller will perform all warranty work that was agreed to with the Buyer if the Property is a used vehicle; and (11) that Seller is licensed as required by law. If there is, as solely determined by Holder, any breach of any such warranty, without regard to Seller's knowledge or lack of knowledge with respect thereto or Holder's reliance thereon, Seller hereby agrees unconditionally to purchase this contract and/or the Property from Holder, upon demand, for the full amount then unpaid whether this contract shall then be, or not be, in default. Seller agrees to indemnify Holder for any judicial settlor or loss, including attorney's fees and court costs, suffered as a result of a claim or defense of Buyer against Seller. If this contract is rescinded by court order or for any other reason Seller agrees to pay Holder the full amount Holder paid to purchase it. Liability of Seller arising out of or incident to this assignment shall not be affected by waiver, indulgence, compromise, settlement, extension or variation of the terms of the contract even if it results in the discharge or release of the obligation of Buyer or any other interested person, by operation of law or otherwise. Seller waives notice of acceptance of this assignment and notices of non-payment and non-performance of the contract. In addition to all of the foregoing, this assignment is subject to the provisions set out to the right hereafter in the paragraph headed by Seller, provided, that if none of the paragraphs to the right hereafter has been initiated by Seller, this assignment shall include the provisions of the paragraph to the right hereafter entitled "Full Repurchase".

INITIAL APPLICABLE PROVISIONS . . .

- ☐ **WITHOUT RECOURSE.** The assignment of this contract is without recourse to the Seller except in the circumstances set forth above.
- ☐ **FULL RECOURSE.** Seller unconditionally guarantees payment to Holder of the full amount remaining unpaid under this contract and agrees to purchase this contract and/or the Property from Holder, upon demand, for the full amount then unpaid whether the contract shall then be, or not be, in default.
- ☐ **FULL REPURCHASE.** In the event of default by Buyer under this contract and provided that Holder shall take possession of the Property and tender delivery of same to Seller within 90 days after maturity of the earliest installment wholly in default under this contract, Seller agrees to purchase this contract and/or the Property from Holder and, regardless of the condition of the Property, Seller agrees to pay to Holder the then net unpaid balance of the contract plus the reasonable expenses incurred by Holder in such taking and delivery of the Property. If Holder's ability to tender delivery of the Property is impaired due to litigation, including but not limited to litigation requisite to obtain possession of the Property, criminal prosecution, seizure by governmental authority, redemption requirements, clearing or perfecting title, monetary legislation or proclamation, or acts of God, war, rebellion, insurrection or of the public enemy, then Holder's obligation to tender delivery hereunder shall be excused until 30 days after Holder receives notice of the cessation of any such condition.
- ☐ **LIMITED REPURCHASE.** Seller agrees to comply with the terms and obligations of the foregoing Full Repurchase agreement (which are incorporated herein by reference), provided, however, that such obligations of Seller shall terminate hereunder upon payment to Holder by the Buyer of the first _____ monthly installments within 15 days of their respective due dates.
- ☐ **OPTIONAL REPURCHASE.** If Holder takes possession of the Property, Seller shall, upon demand from Holder, either pay Holder _____, or, at Seller's option, buy the contract and/or the Property in its then condition and location from Holder for the then net unpaid balance of the contract plus the reasonable expenses incurred by Holder in the taking of the Property.

Vehicle Summary With NADA Values
N.A.D.A Official Used Car Guide
Wednesday, September 29, 2004

Guide Edition: Midwest Used Car Guide - September 2004

Vehicle Description: 2001 AUDI
 TT-180 HP-4 CYL. CPE 2D QUATTRO TURBO

VIN: TRUWC28N111004234
Stock #:

Weight: 3208
MSRP: \$32,950

N.A.D.A. Base Values:	Retail:	\$22,425	Trade:	\$19,175	Loan:	\$17,275
Mileage Value (N/A Miles)		N/A				
Accessories Values		\$0		\$0		\$0

N.A.D.A Adjusted Values:	Retail:	\$22,425	Trade:	\$19,175	Loan:	\$17,275
Appraiser Adjustment Value		\$0				

Adjusted Values:	Retail:	\$22,425	Trade:	\$19,175	Loan:	\$17,275
-------------------------	----------------	-----------------	---------------	-----------------	--------------	-----------------

Accessories:

	Retail	Trade	Loan
W/out Auto. Trans.	w/body	w/body	w/body

EXHIBIT C

Appraiser Adjustments:

NADA assumes no responsibility or liability for any errors or omissions or
 any revisions or additions made by anyone on this report.
 All NADA values are reprinted with permission of N.A.D.A. Official Used Car Guide Company Copyright NADASC 2004

04-04100-0

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTAIn Re:
Mark A Nelson,

Debtor,

Case No. 04-35337
Chapter 7 Case

VERIFICATION FOR MOTION FOR RELIEF FROM STAY

I, Tara Cuny, Vendor Supervisor for Audi Financial Services, a division of VW Credit, Inc., the Creditor herein, declare under penalty of perjury that the following is true and correct according to the best of my knowledge, information and belief, and based on the Creditor's business records:

1. I am legally competent to testify and am personally familiar with the debt owed by Debtor to the Creditor on account no. 6224-N-8830.
2. The Debtor owes the Creditor \$20,934.91, payoff amount as of September 29, 2004, plus accrued unpaid interest thereon since that date. The monthly loan payment is \$404.07. As of September 29, 2004, the loan payments are in arrears \$1,212.21 for payments owing since July 27, 2004.
3. The debt owed to the Creditor is secured by a perfected lien on a 2001 AUDI TT-180 CPE QUATTRO TURBO VEHICLE. The current NADA published retail value of the collateral is \$22,425.00.
4. True and correct copies of the title documents are attached to the Motion as Exhibit "A". True and correct copies of the loan documents are attached as Exhibit "B".
5. Loan documents require insurance be maintained to protect the Creditor's interest in the collateral. No evidence of insurance has been provided since filing.

Dated: 10.4.2004Tara CunyVendor Supervisor for Audi Financial Services, a division of VW Credit, Inc.
1401 Franklin Blvd
Libertyville, IL 60048

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:
Mark A Nelson,
Debtor,

Case No. 04-35337
Chapter 7 Case

MEMORANDUM OF FACT AND LAW

Audi Financial Services, a division of VW Credit, Inc. ("Movant") submits this Memorandum of Fact and Law in support of its motion for relief from the stay.

FACTS

Movant is the holder of a secured claim, and is thus a party in interest. Movant has a valid and perfected security interest in the collateral. The collateral is in Debtor's possession or control.

The total net balance due on the Contract is \$20,934.91 as of September 29, 2004. On information and belief, the collateral has an NADA retail value of \$22,425.00. NADA pages showing this collateral value are attached as Exhibit "C".

The Statement of Intentions says Debtor will surrender the vehicle; Debtor has failed to do so. Movant's collateral is subject to depreciation in that the collateral is being used, subjecting the same to wear and tear, while Debtor is failing to make payments.

There has been a further material default in that the Debtor has failed to comply with the Contract provision requiring Debtor to supply Movant with evidence of collateral insurance. On information and belief, the Debtor has failed to maintain such insurance.

ARGUMENT

Pursuant to 11 U.S.C. §362(d)(1), a creditor is entitled to relief from the automatic stay "for cause, including the lack of adequate protection of an interest in property of such creditor." In this case, there is a lack of adequate protection as follows:

- Failure to make the payments required by the Contract since July 27, 2004.

- Failure to make payments due post petition under the Contract.
- Failure to maintain physical damage insurance on the collateral.

Movant has not been provided with adequate protection of Movant's interest in the collateral.

Such circumstances constitute cause, within the meaning of §362(d)(1), justifying relief from the stay.

See, United States Association of Texas v. Timbers of Inwood Association, Ltd. (In re Timbers of Inwood Association, Ltd.), 484 U.S. 365, 108 S.Ct. 626, 98 L.Ed. 2d 740 (1988); In re Reinbold v. Dewey County Bank, 942 F.2d 1304, 1306 (8th Cir. 1991). Pursuant to 11 U.S.C. §362(g), the burden is on the Debtor to prove adequate protection and/or absence of cause.

Pursuant to 11 U.S.C. §362(d)(2), relief from the automatic stay is also appropriate if the Debtor has no equity in the property and the property is not necessary to an effective reorganization. See, In re Gellert, 55 B.R. 970 (Bkrtcy. D.N.H. 1983). In the present case, the balance due Movant on the Contract is \$20,934.91. It appears Debtor has no equity in the collateral. No evidentiary hearing is required on the issue of equity unless Debtors dispute it. Powers v. American Honda Finance Corp., 216 B.R. 95, 97 (N.D.N.Y. 1997). There is no reorganization proposed by the Debtor in this Chapter 7 case. Pursuant to 11 U.S.C. §362(g), the burden is on Debtor to establish that collateral is necessary for reorganization.

Bankruptcy Rule 4001(a)(3) imposes a stay of 10 days which the court may, in its discretion, order is not applicable so that Movant may immediately enforce and implement the order granting relief. Advisory Committee Notes to 1999 Amendments to Bankruptcy Rule 4001.

Dated: October 6, 2004

STEWART, ZLIMEN & JUNGERS, LTD.
/s/ Linda Jeanne Jungers
Linda Jeanne Jungers, Atty ID #5303X
Attorneys for Movant
430 Oak Grove Street #200
Minneapolis, MN 55403
612-870-4100

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:
Mark A Nelson,
Debtor,

Case No. 04-35337
Chapter 7 Case

UNSWORN CERTIFICATE OF SERVICE

I, Linda Jeanne Jungers, declare under penalty of perjury that on October 7, 2004, I mailed copies of the attached Notice of Hearing and Motion for Relief from the Stay with Exhibits, Verification, Memorandum of Fact and Law, Certificate of Service, and proposed Order, by first class mail postage prepaid to each entity named below at the address stated below for each entity.

Mark A Nelson
1604 Hale Dr
Albert Lea, MN 56007

Jamie A Kylo, Esq.
202 West Clark St
PO Box 181
Albert Lea, MN 56007

Paul W Bucher
Chapter 7 Trustee
206 Broadway S Suite 505
PO Box 549
Rochester, MN 55903-0549

U.S. Trustee
1015 U.S. Courthouse
300 South 4th Street
Minneapolis, MN 55415

Executed on: October 7, 2004

Signed: /s/Linda Jeanne Jungers
Linda Jeanne Jungers
STEWART, ZLIMEN & JUNGERS
430 Oak Grove Street, #200
Minneapolis, MN 55403

04-04100-0

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:
Mark A Nelson,
Debtor,

Case No. 04-35337
Chapter 7 Case

ORDER FOR RELIEF FROM THE STAY

Audi Financial Services, a division of VW Credit, Inc.'s Motion for an order granting relief from the stay came before the Court on October 25, 2004 at 9:30 AM o'clock.

Based on the arguments of counsel, all the files, records and proceedings herein, the court being advised in the premises, and the court's findings of fact and conclusions of law, if any, having been stated orally and read in open court following the close of evidence,

IT IS HEREBY ORDERED:

1. The automatic stay is modified to permit Audi Financial Services, a division of VW Credit, Inc. to repossess and sell the 2001 AUDI TT-180 CPE QUATTRO TURBO VEHICLE, VIN TRUWC28N111004234 in accordance with applicable state law.
2. Notwithstanding Federal Rule of Bankruptcy Procedure 4001(a)(3), this Order is effective immediately.

Dated: _____

United States Bankruptcy Judge